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March 8, 2024

**VIA ECF**

Honorable Katherine Polk Failla  
United States District Judge  
Southern District of New York  
40 Foley Square,  
New York, NY 10007

**MEMO ENDORSED**

*Re: Alexander Gomez v. Midtown Eats LLC, et al.*

*Civil Action No: 1:24-cv-00665-KPF*

*Joint Letter Pursuant to D.E.#9 (with Proposed Case Management Plan) and  
Antecedent Motion to Adjourn Conference and Extend Time to Answer*

Your Honorable Judge Failla,

I represent the Plaintiff in the above-referenced matter.

The Court's Notice of Initial Pretrial Conference [DE#9] requires that the parties submit a Joint Letter, together with their Proposed Case Management Plan and Scheduling Order, at least 7 days prior to the Initial Pretrial Conference.

Pursuant to the Court's Order, the following information is provided by the parties:

**(1) A brief statement of the nature of the action and the principal defenses thereto;**

This is an action for injunctive relief pursuant to the Americans with Disabilities Act 42 U.S.C. § 12181, et seq., and the ADA's Accessibility Guidelines, 28 C.F.R. Part 36. The Defendant **Midtown Eats LLC**'s principal defense is that the subject premises is in compliance with the ADA and all applicable statutes, codes and regulations.

**(2) A brief explanation of why jurisdiction and venue lie in this Court;**

This Court has original jurisdiction over the action pursuant to 28 U.S.C. §§ 1331 and 1333 for Plaintiff's claims arising under 42 U.S.C. § 12181, et seq., based upon Defendant's violations of Title III of the ADA (see also, 28 U.S.C. §§ 2201 and 2202).

**(3) A brief description of all outstanding motions and/or all outstanding requests to file motions;**

There are no outstanding motions or outstanding requests to file any motions at this time.

**(4) A brief description of any discovery that has already taken place, and that which will be necessary for the parties to engage in meaningful settlement negotiations;**

At this time the parties will attempt to engage in meaningful settlement discussions but may need a Rule 34 ADA Land Inspection to be scheduled with an expert or expert witness in order to further settlement discussions, with the possibility that additional discovery in the form of interrogatories to discovery names of witnesses and the existence of evidence, requests for admissions and production of documents, and depositions of witnesses.

**(5) A list of all prior settlement discussions, including the date, the parties involved, and the approximate duration of such discussions, if any;**

The parties have not yet held any settlement discussions.

**(6) The estimated length of trial; and**

2-3 Days

**(7) Any other information that the parties believe may assist this Court in resolving the action.** None at this time.

**(8) The additional motion, jointly on behalf of the Parties for a 30-day extension of time to Answer the Complaint;**

Finally, the Parties herein jointly move this Honorable Court for a thirty “30” day extension, *nunc pro tunc*, of Defendant Midtown Eats LLC’s deadline to answer the operative Complaint [DE#1], or otherwise respond to the pleading.

Further, the Parties also wish to make the additional request that the Court grant an adjournment of the Initial Pre-Trial Conference, at least until after Defendant Midtown Eats LLC has responded to the Complaint which may also afford the Defendant 319 East 53<sup>rd</sup> Street’s further time to appear in this matter.

Respectfully

Submitted,

**BARDUCCI LAW**

**FIRM**

s/Maria Costanza Barducci, Esq.

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MARIA COSTANZA BARDUCCI,  
ESQ.

cc: Via CM/ECF Only

Application GRANTED. Defendant Midtown Eats LLC shall answer, move, or otherwise respond to the Complaint on or before **April 8, 2024**. The Court will separately enter the parties' proposed case management plan. In light of the extended fact discovery period, the parties are advised that no extensions to the fact discovery deadline will be given, absent exigent circumstances.

The Initial Pretrial Conference scheduled for March 12, 2024, is hereby ADJOURNED *sine die*.

The Clerk of Court is directed to terminate the pending motion at docket entry 12.

Dated: March 8, 2024 SO ORDERED.  
New York, New York



HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE